

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

RUSSELL DESHON LEONARD,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

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CIVIL ACTION NO. 2:16-CV-01347-RWS

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Russell Deshon Leonard, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit against the United States of America. The case was referred to United States Magistrate Judge Roy S. Payne, who issued a Report and Recommendation concluding that the lawsuit should be dismissed with prejudice. Plaintiff has filed objections.

I. Standard of Review and Reviewability

The Court reviews objected-to portions of the Magistrate Judge's Report and Recommendation *de novo*. See Fed. R. Civ. P. 72 and 28 U.S.C. § 636(b) (1) ("A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). The Court conducting a *de novo* review examines the entire record and makes an independent assessment under the law. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir.1996) (en banc).

II. Plaintiff's Objections

Plaintiff sued the United States alleging civil-rights violations and improper seizure of currency. Docket No. 1 at 3. Plaintiff provided a brief description of his state conviction for murder and his federal conviction for possession with intent to distribute cocaine. *Id.* at 4. In his Complaint, Plaintiff includes a history of his 17 years of incarceration in various institutions. *Id.* Plaintiff seeks unspecified monetary damages for false imprisonment and return of his currency. *Id.* at 3.

The Magistrate Judge reviewed the Plaintiff's Complaint and concluded that the lawsuit should be dismissed with prejudice because the United States of America has absolute immunity in this case. Docket No. 6 at 3.

In his objections, Plaintiff argues that he is entitled to a jury trial on the merits of his claims pursuant to the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution. Docket No. 8 at 2–3.

III. Analysis

In his Complaint, Plaintiff lists the “U.S. District Court” as the defendant. Docket No. 1 at 3. The Court is an entity existing under and proceeding pursuant to federal law, as are its orders, which are the only basis for Plaintiff's lawsuit.

The United States of America has sovereign immunity from a civil-rights lawsuit seeking monetary damages. *United States v. Sherwood*, 312 U.S. 584, 586 (1941). The federal government has not waived sovereign immunity for § 1983 claims. *See Boyd v. United States*, 861 F.2d 106, 107 (5th Cir. 1988).

Therefore, Plaintiff does not have a claim under §1983. *See Boyd*, 861 F.2d at 107. Further, Plaintiff has not pled a viable claim under the Federal Tort Claims Act. *See Levin v. United States*, 133 S.Ct. 1224, 1228 (2013).

IV. Conclusion

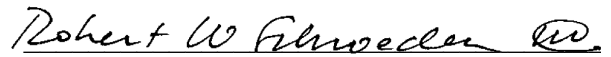
The Court has made a *de novo* review of the objected-to portions of the Report and Recommendation and agrees with the Magistrate Judge that this case should be dismissed for failure to state a claim upon which relief may be granted and as frivolous in that it lacks any basis in law and fact. The lawsuit will be dismissed pursuant to 28 U.S.C. §1915(e)(2)(B).

Accordingly, it is

ORDERED that the Plaintiff's objections are overruled and the Report of the Magistrate Judge is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. §1915(b)(1).

So ORDERED and SIGNED this 16th day of June, 2017.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE